



Department of Justice

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MYTH VS. REALITY--THE FACTS OF WHY THE GOVERNMENT PROSECUTED AGENTS COMPEAN AND RAMOS

Myth: THE AGENTS WERE JUST DOING THEIR JOBS

Reality: Securing our nation's borders can be a tough and dangerous job. Often, Border Patrol agents find themselves in difficult and dangerous situations. We give them guns and allow them to defend themselves. Border Patrol training allows for the use of deadly force when an agent reasonably fears imminent bodily injury or death. An agent is not permitted to shoot an unarmed suspect who is running away.

There was no credible evidence that the agents were in a life-threatening situation or that Aldrete, the Mexican alien, had a weapon that would justify the use of deadly force. In fact, Border Patrol Agent Juarez, who was at the scene, testified at trial that he did not draw his pistol because he did not believe there was a threat. He also testified that Aldrete did not have a weapon and was almost to Mexico when Agent Compean began firing at him.

In America, law enforcement officers do not get to shoot unarmed suspects who are running away, lie about it to their supervisors and file official reports that are false. That is a crime and prosecutors cannot look the other way.

Myth: THE GOVERNMENT LET A DRUG SMUGGLER GO FREE

Reality: My office would have much preferred to see Aldrete convicted and sent to prison for his crimes. We are in the business of putting guys like Aldrete behind bars. In fact, this office leads the nation in the number of drug smuggling cases we prosecute. Because the agents could not identify him, found no fingerprints, could not tie him to the van and did not apprehend him after shooting him, the case against Aldrete could not be proven.

Myth: THESE BORDER PATROL AGENTS SHOULD NOT HAVE BEEN PROSECUTED

Reality: The crimes committed by these agents rise to the level of felonies and are not mere administrative oversights. This was not a simple case of discharge of a firearm that was not reported. The truth of this case is that Agents Compean and Ramos shot 15 times at an unarmed man who was running away from them and who posed no threat.

This office cannot ignore these agents' crimes just because the person they shot turned out to be a drug smuggler. Our system of justice requires that a person be tried in a court of law before he is punished. We do not permit police officers to summarily punish those whom the officers think have committed crimes. A police officer cannot shoot at an unarmed suspect who does not pose an immediate serious threat to the life of the officer or a bystander.

In order to maintain the rule of law, federal prosecutors cannot look the other way when law enforcement officers shoot unarmed suspects who are running away, then lie about it to their supervisors and file official reports that are false.

Myth: ALDRETE HAS BEEN ARRESTED FOR SMUGGLING MORE DRUGS INTO THE UNITED STATES

Reality: Aldrete has not been subsequently arrested for drug smuggling. Our office is in the business of prosecuting drug traffickers and alien smugglers. We are on the front lines of this battle and we aggressively prosecute these criminals every day in court. In fact, the Western District of Texas leads the nation in the number of individuals we prosecute for illegally smuggling drugs into this country. If we had a provable case against Aldrete, we would prosecute him.

Myth: THE GOVERNMENT GAVE ALDRETE BLANKET IMMUNITY FOR HIS CRIMES

Reality: Agent Compean failed to arrest Aldrete when he attempted to surrender; instead, Compean tried to hit Aldrete with the butt of his shotgun, at which time Aldrete began to run towards the border. The agents shot at him 15 times, hitting him once, knocking Aldrete to the ground. Compean and Ramos chose not to walk over to the wounded Aldrete and arrest him; rather, they re-holstered their guns, turned around and left the scene. When Aldrete then got back to Mexico without having been apprehended and identified, there was no longer any way to tie him to the load of marijuana, except through his own admissions.

Prosecutors promised Aldrete they would not use his truthful statements and testimony to prosecute him for the events that occurred on Feb. 17, 2005. Prosecutors around the country routinely make similar representations to obtain crucial testimony. This type of "use immunity" does not give blanket immunity for any crimes he may have committed or may commit in the future. If there were other admissible evidence besides his own statements sufficient to convict him, he could be prosecuted for the offense he describes.

As a practical matter, the promise to Aldrete gave up very little since the case against him was not prosecutable. There was no way to prosecute Aldrete while he was in Mexico. We could not have forced him to come back to the United States to be prosecuted, and there was no evidence against him until he agreed to cooperate.

Myth: ALDRETE HAD A GUN AND THE AGENTS ONLY FIRED IN SELF DEFENSE

Reality: Trial testimony from other Border Patrol agents who were at the scene and who arrived shortly after the shooting shows that this is not true. Testimony further revealed that Agents Compean and Ramos never took cover nor did they ever warn the other agents to take cover. This action demonstrates that they did not perceive a threat. In his statement to investigators, Compean admitted that Aldrete had attempted to surrender with both hands open and in the air.

Had Agents Compean and Ramos truly believed Aldrete was a threat, they would not have abandoned him after the shooting and they would have warned their fellow agents who arrived at the scene to stay out of the open while an armed suspect was on the loose. If the agents had believed that the shooting was justified then they would have left the crime scene undisturbed and let the investigation absolve them. The agents knew that Aldrete did not have a weapon and they knew he posed no threat to them as he fled. Agent Juarez also testified that Aldrete was surrendering to Compean with his hands open and empty palms turned to Compean.

Myth: THE AGENTS WERE NOT SURE OF WHAT THEY SAW BECAUSE IT WAS IN THE MIDDLE OF THE NIGHT

Reality: The events of Feb. 17, 2005, occurred at approximately 1:00 P.M MT.

Myth: JOHNNY SUTTON IS AN OVERZEALOUS PROSECUTOR WHO IS ON THE WRONG SIDE OF THE LAW

Reality: These agents were found guilty by a unanimous jury in a United States District Court after a trial that lasted more than two and a half weeks.

The two agents were represented by experienced and aggressive trial attorneys, both of whom vigorously challenged the Government's evidence through cross examination.

Both agents told their stories from the witness stand and had full opportunities to explain their version of events and to offer their own evidence. The jury heard everything including the defendants' claims of self defense. The problem for Agents Compean and Ramos is that the jury did not believe their stories because they were not true.

Myth: THESE AGENTS ARE FACING TOO MUCH TIME IN FEDERAL PRISON

Reality: Congress determined the penalties imposed on Compean and Ramos by setting the punishment for discharging a firearm during a crime of violence at a mandatory minimum of ten years (on top of any other sentence imposed). Congress did not make an exception for law enforcement officers

Myth: THE DRUG SMUGGLER WAS AWARDED A GREEN CARD

Reality: Aldrete was not given a green card which would enable him to have permanent legal resident status in this country. A military physician in the United States removed the bullet from Aldrete because it was an important piece of evidence and because the law requires the government to render such assistance. In order to have the bullet removed, meet with federal

investigators and to testify in court in El Paso, he was entitled to come into the United States on a limited basis within a limited geographical area and only for those purposes. The last time he was legally allowed to enter the United States was in February 2006.

Myth: ALDRETE NEVER HAD HIS HANDS UP AND WAS NOT ATTEMPTING TO SURRENDER

Reality: In their sworn testimony, Agent Compean and Agent Juarez both testified that Aldrete did have his hands in the air in an effort to surrender.

Myth: COMPEAN WAS BLOODIED FROM A STRUGGLE WITH ALDRETE

Reality: Trial testimony showed that the only blood on Agent Compean was between his thumb and forefinger and was a result of him improperly holding his weapon. When asked if he was injured, he said “no” and when further asked if he wanted to file a report for his injury, he again said “no.”

Myth: THESE AGENTS DID NOT REPORT THE SHOOTING TO SUPERVISORS BECAUSE THE SUPERVISORS WERE ON THE SCENE OF THE SHOOTING

Reality: The trial testimony of the defendants, fellow Border Patrol agents who were on the scene and who arrived shortly thereafter, as well as taped radio communications showed that there were no supervisors at the scene at the time of the shooting. The agents knew they must report any discharge of a firearm and had just received training to this effect the day before this shooting. Further, Agent Ramos was a Border Patrol firearms instructor and a member of the evidence recovery team. He was well aware of this requirement as he had taught this to other agents. They did not report the discharge because they knew the shooting was not justified. Furthermore, based on their training and experience, they were aware of what law enforcement resources would be dispatched to the crime scene to investigate a shooting, including sector evidence team, the Federal Bureau of Investigation, and state and local law enforcement.

Myth: ILLEGAL ALIENS DO NOT HAVE ANY CONSTITUTIONAL RIGHTS

Reality: The courts have held that the 4th Amendment to the Constitution protects all persons in the United States whether they are here legally or illegally. It is a violation of the 4th Amendment to shoot an unarmed person who poses no threat to the shooter. This law applies regardless of immigration status.

Myth: AGENT RAMOS CLAIMS THAT THE BULLET EXTRACTED FROM ALDRETE MIGHT NOT HAVE COME FROM HIS SERVICE REVOLVER

Reality: Agent Ramos stipulated and agreed before trial that the bullet extracted from Aldrete came from his service weapon. Independent forensic analysis also showed that the bullet extracted from Aldrete matched Agent Ramos’ weapon.

Myth: AGENT RAMOS WAS BORDER PATROL AGENT OF THE YEAR

Reality: Agent Ramos has never received any formal recognition or award for being the Border Patrol Agent of the year. In fact, he has been arrested on at least two occasions for domestic abuse and was formally disciplined for conduct unbecoming a federal officer.

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